IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE NCB MANAGEMENT SERVICES, INC. DATA BREACH LITIGATION	: : : : : :	**CIVIL NO. 23-1236** **This Document Applies To:** **ALL ACTIONS**

ORDER

AND NOW, this **11th** day of **September, 2024,** upon consideration of the Motion of Defendant NCB Management Services, Inc. to Dismiss Plaintiffs' Consolidated Class Action Complaint (ECF No. 48), Plaintiffs' Memorandum of Law in Opposition to Defendant NCB Management Services, Inc.'s Motion to Dismiss (ECF No. 72), and Reply Brief in Support of the Motion of Defendant NCB Management Services, Inc. to Dismiss Plaintiffs' Consolidated Class Action Complaint (ECF No. 82), it is hereby **ORDERED** that the motion is **GRANTED**.

IT IS FURTHER ORDERED as follows:

1.   Plaintiffs Joseph Lindquist, Ernesto Medina, Benedict Lozada, Edward Del Hierro, Michael Teixeira, Jacqueline O'Brien, Kelly Matts, and Micael Martin are **DISMISSED** from this action for lack of standing pursuant to Fed. R. Civ. P. 12(b)(1).

2.   Count III of the Plaintiffs' Consolidated Class Action Complaint (ECF No. 24) ("Complaint"), asserting claims of negligence *per se* premised on an alleged violation of: (a) the Federal Trade Commission Act, 15 U.S.C. § 45, *et seq.*, and (b) the Driver's Privacy Protection Act, 18 U.S.C. § 2721, *et seq.* ("DPPA"), are **DISMISSED** as to Defendant NCB Management Services, Inc. ("NCB") pursuant to Fed. R. Civ. P. 12(b)(6).

3.   Count VI of the Complaint, asserting a claim for breach of implied contract, is **DISMISSED** as to NCB pursuant to Fed. R. Civ. P. 12(b)(6).

4.   Count IX of the Complaint, asserting a claim for unjust enrichment, is **DISMISSED** as to NCB pursuant to Fed. R. Civ. P. 12(b)(6).

5.   Count XI of the Complaint, asserting a claim under the California Unfair Competition Law, Cal. Bus. & Prof. Code §§17200, *et seq.*, is **DISMISSED** as to NCB pursuant to Fed. R. Civ. P. 12(b)(6).

6.   Count XII of the Complaint, asserting a claim under the California Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750, *et seq.*, is **DISMISSED** as to NCB pursuant to Fed. R. Civ. P. 12(b)(6).

7.   Count XIII of the Complaint, asserting a claim under the California Consumer Privacy Act, Cal. Civ. Code §§ 1798.150, *et seq.*, is **DISMISSED** as to NCB pursuant to Fed. R. Civ. P. 12(b)(6).

8.   Count XIV of the Complaint, asserting a claim under the DPPA, is **DISMISSED** as to NCB pursuant to Fed. R. Civ. P. 12(b)(6).

9.   Count XV of the Complaint, asserting a claim under the New York General Business Law, N.Y. Gen. Bus. Law § 349, is **DISMISSED** as to NCB pursuant to Fed. R. Civ. P. 12(b)(6).

10.   Count XVII of the Complaint, asserting a claim under the Massachusetts Consumer Protection Act, Mass. Gen. Laws Ann. ch. 93A, §§ 2(a), 11, is **DISMISSED** as to NCB pursuant to Fed. R. Civ. P. 12(b)(6).

11.   Count XIX of the Complaint, asserting a claim for breach of a contract to which plaintiffs were intended third-party beneficiaries, is **DISMISSED** as to NCB pursuant to Fed. R. Civ. P. 12(b)(6).

12.   Count XVI of the Complaint, asserting a claim under the Florida Deceptive and

Unfair Trade Practices Act, Fla. Stat. §§ 501.201, *et seq.*, is **DISMISSED** as to NCB for lack of a named Florida plaintiff remaining in the action to assert this claim.

13.   Count IV of the Complaint, asserting a claim for a willful violation of the Fair Credit Reporting Act, 15 U.S.C. § 1681, is **DISMISSED as withdrawn** as to NCB.
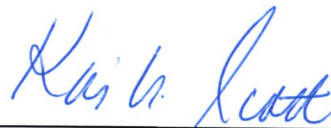
14.   Count V of the Complaint, asserting a claim for a negligent violation of the Fair Credit Reporting Act, 15 U.S.C. § 1681, is **DISMISSED as withdrawn** as to NCB.

15.   Count VIII of the Complaint, asserting a claim for invasion of privacy, is **DISMISSED as withdrawn** as to NCB.

16.   Count X of the Complaint, asserting a claim under the California Customer Records Act, Cal. Civ. Code §§ 1798.80, *et seq.*, is **DISMISSED as withdrawn** as to NCB.

17.   NCB shall file its Answer to the Complaint by **October 2, 2024**.

                              BY THE COURT:

                              _____
                              HON. KAI N. SCOTT
                              United States District Court Judge